

REMARKS

The Examiner has objected to claim 15 because of the use of the term “about” in the claim. However, the term “about” in the context of the claim is also found in the original specification and claim 15 is an original claim. Further, a claim is not rendered indefinite merely because it contains a word or words of degree. *Seattle Box Co. v. Industrial Crate & Package, Inc.*, 731 F.2d 818, 221 USPQ 568 (Fed. Cir. 1984); *In re Marosi*, 710 F.2d 799, 218 USPQ 289 (Fed. Cir. 1983). The term “about” is commonly used in patent claims and this objection should be withdrawn.

Claims 1-38 have been rejected under 35 U.S.C. §103(a) as being unpatentable over Hayzelden et al. (US 2002/0165534) in view of Hampton et al. (U.S. Patent No. 4,940,062). This rejection is erroneous and should be withdrawn.

The present invention concerns a novel balloon catheter. In sharp contrast, Hayzelden et al. concerns an ablation catheter having electrodes and thermocouple wires and is not adaptable to or useable as a balloon catheter. The present invention, as claimed, is different in so many respects that it is improper to try to combine the ablation catheter of Hayzelden et al. with Hampton et al.’s balloon catheter in an attempt to construct the present invention.

As set forth in claim 1 of the instant application, the present invention concerns a steerable balloon catheter, not an ablation catheter. The balloon catheter of the present invention has an inner elongated flexible hollow tubing and an outer elongated flexible tubing surrounding the inner elongated hollow tubing so as to define a passageway between the outer tubing and the inner elongated flexible hollow tubing. An inflatable balloon is mounted on the outer flexible tubing and communicates with the passageway

between the outer tubing and the inner hollow tubing. Hayzelden et al. teaches away from this because Hayzelden et al. is an ablation catheter having only a single lumen and not being adaptable for reconstruction into a balloon catheter.

Moreover, the present balloon catheter invention, as set forth in all of the claims, has a flexible helical coil attached to the distal portion of the inner elongated flexible hollow tubing. The Examiner refers to reference numeral 82 of Hayzelden et al. as being "a flexible helical coil" but this is erroneous. Reference numeral 82 of Hayzelden et al. refers to layers of braided stainless steel ribbons, not to a flexible helical coil. Further, Hayzelden et al.'s braided ribbons 82 are not attached to the distal portion of an inner elongated flexible hollow tubing as claimed.

Claim 1 of the present application also calls for a retaining ribbon in which the proximal end of the retaining ribbon is attached to the distal portion of the inner elongated flexible hollow tubing and the retaining ribbon is oriented to extend in the plane which is generally parallel to the plane of a flattened deflection ribbon. Claim 16 calls for an elongated retaining member in which the proximal end of the retaining member is attached to the distal portion of the flexible hollow tubing. Claim 26 calls for a retaining ribbon in which the proximal end of the retaining ribbon is attached to the distal portion of the first elongated flexible hollow tubing and the retaining ribbon is oriented to extend in a plane which is generally parallel to the plane of a slidably disposed elongated deflection member. Hayzelden et al. has nothing like any of this. The Examiner refers to reference numeral 54 of Hayzelden et al. as "a retaining ribbon" but it is seen that item 54 of Hayzelden et al. is a steering tendon and it does not have a

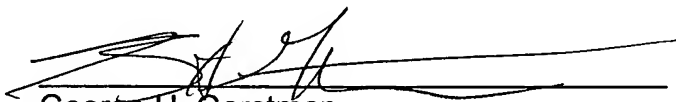
proximal end attached to the distal portion of an inner elongated flexible hollow tubing as claimed.

All of the claims of the present application also call for an attachment member engaging the distal end of the helical coil. Not only does Hayzelden et al. not disclose a helical coil, but in addition, even if Item 82 of Hayzelden et al. were a helical coil (which it is not - - it a braid), resin 50 of Hayzelden et al. does not engage the distal end of braid 82 in any event.

It can be seen that in addition to Hayzelden et al. disclosing a significantly different type of device than the device claimed in the present application, Hayzelden et al. does not disclose structural elements that even come close to meeting the language of applicant's present claims. Compounded with the fact that the combination of Hayzelden et al.'s ablation catheter with Hampton et al.'s balloon catheter is improper, the Examiner is urged to withdraw the rejection and to pass the application to issue at an early date.

If for some reason the Examiner does not believe that the present application is in condition for allowance, the Examiner is requested to telephone the undersigned prior to issuing an Office Action.

Respectfully submitted,
SEYFARTH SHAW LLP



George H. Gerstman
Registration No. 22,419
Attorney for Applicant

SEYFARTH SHAW LLP
131 S. Dearborn Street, Suite 2400
Chicago, Illinois 60603
(312) 460-5567



CERTIFICATE OF MAILING

I hereby certify that this correspondence is being deposited with the U.S. Postal Service as First Class Mail in an envelope addressed to: Mail Stop: Amendment, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450 on Dec. 28, 2006.

A handwritten signature in black ink, appearing to be "H. H. H.", written over a horizontal line.

Registered Attorney for Applicant

Date: Dec. 28, 2006